IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 19TH SEPTEMBER 2007 / 28TH BHADRA 1929

Bail Appl..No. 5625 of 2007()

SC.495/2005 of ADDITIONAL DISTRICT COURT (ADHOC), PALAKKAD
CRIME NO.117/02 OF PUDUNAGARAM POLICE STATION

.....

PETITIONER/ACCUSED

BABU @ SODA BABU, S/O ARUMUGHAN,
AGED 36 YEARS, THEKKEKKADU,
VANDITHAVALAM, CHITTUR TALUK, PALAKKAD.

BY ADV. SRI.K.P.BALAGOPAL

RESPONDENTS: COMPLAINANT,

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY P.P. SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 5625 OF 2007

Dated this the 19th day of September, 2007

ORDER

Application for anticipatory bail. The petitioner faces indictment in a prosecution under the provisions of the Kerala Abkari Act. Investigation is complete. Final report has already been filed. The case has been committed. The same has been registered as a Sessions Case before the learned Additional Sessions Judge. Consequent to the non-appearance of the petitioner, the case against him has now been transferred to the list of Long Pending Cases.

2. According to the petitioner, he is absolutely innocent. His omission/failure to appear before the learned Sessions Judge was not wilful or deliberate; but was due to reasons beyond his control. The petitioner, in these circumstances, wants to surrender before the learned Sessions Judge and

seek regular bail. The petitioner apprehends that his application for regular bail may not be considered by the learned Sessions Judge on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Sessions Judge to release him on bail when he appears before the learned Sessions Judge.

2. It is for the petitioner to appear before the learned Sessions Judge and explain to the learned Sessions Judge the circumstances under which he could not earlier appear before the learned Sessions Judge. I have no reason to assume that the learned Sessions Judge would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Sessions Judge and seeks bail, after giving sufficient

prior notice to the Prosecutor in charge of the case, the learned Sessions Judge must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge